remedy lies. *Lynn v. Bruce* (1794, C. P.) 2 H. Bl. 317; *Allen v. Harris* (1537, C. P.) 1 Ld. Raym, 122. This doctrine developed when bilateral contracts were not recognized by the early common law; and an accord is generally, if not always, a bilateral contract. But now, since bilateral contracts are enforceable everywhere, there is no reason for the continuance of this. And accords are now enforceable contracts in most jurisdictions. *Nash v. Armstrong* (1861, C. P.) 10 C. B. N. S. 259; *Schweider v. Lang* (1882) 29 Minn. 254, 13 N. W. 33; *Hunt v. Brown* (1888) 146 Mass. 253, 15 N. E. 587. In the principal case, the accord is a good bilateral contract, and, since tender was properly made, the court erred in saying that the defendant was never under a duty because an actual payment was never made. The defendant can not defeat the plaintiff's right by refusal of tender. Actual payment by the plaintiff was waived by the defendant's refusal to accept tender. See *Stafford v. Pooler* (1867, N. Y.) 67 Barb. 143. The general rule is that an executory accord does not bar an action at law; and that tender of performance of the accord likewise is no bar. *Ryan v. Ward* (1872) 48 N. Y. 204; *Kromer v. Heins* (1879) 75 N. Y. 574. If, however, the remedy at law is inadequate and the doctrine of mutuality of performance is not involved, an executory accord which fulfills contract requirements will be enforced in equity, if tender has been made. *Chicora Fer. Co. v. Duncan* (1900) 91 Md. 144, 46 Atl. 347; *Very v. Levy* (1851, U. S.) 13 How. 345. The plaintiff could then plead his release in bar to the pending action at law. The tendency of courts to-day seems to be to enforce compromises of disputed claims whenever possible on grounds of public policy; and it is submitted that few modern courts would follow this case. See Corbin, *Discharge of Contracts* (1913) 22 YALE LAW JOURNAL, 529, 530.

CONTRACTS—ACCORD—TORT CLAIMS—ATTACHMENT.—A state statute provided that a creditor, by a bill in equity, could attach a chose in action which belonged to the debtor and was by its nature assignable. The defendant had a tort claim for personal injuries against A and entered into an agreement with him to accept $850 in full satisfaction of his claim. The plaintiff brought a bill in equity against the defendant and secured a judgment in satisfaction of which he attempted to reach the claim of the defendant to the $850. *Held,* that this claim could not be reached. *White Sewing Machine Co. v. Morrison* (1919, Mass.) 122, N. E. 291.

A tort claim for personal injuries before judgment has been entered is not assignable nor can it be reached, under the above statute, by a creditor's bill. *Bennett v. Sweet* (1898) 171 Mass. 600, 51 N. E. 183; *Wilde v. Mahoney* (1903) 183 Mass. 455, 67 N. E. 337. The agreement with A, an accord executory, is an enforceable bilateral contract. *Schweider v. Lang* (1882) 29 Minn. 254, 13 N. W. 33. But the contract of accord alone is no defence to an action on the tort claim. *Kromer v. Hein* (1879) 75 N. Y. 574; *Field v. Aldrich* (1895) 162 Mass. 587, 39 N. E. 288. Hence the defendant secured a contract right to the $850, conditional on his tendering a release from liability on the tort claim to A. He could sue either on the contract of accord, or on the tort claim, subject to damages for breach of contract, in case of the latter, if A made proper tender. However, a creditor does not have the power of choosing which of two remedies the debtor shall elect. *Lewis v. Dubose* (1856) 29 Ala. 219; *Johnson v. Lamping* (1867) 34 Calif. 293. So it would seem that the instant case was correctly decided.

CONTRACTS—CONSIDERATION—CANCELLATION ON NOTICE.—The defendant dealer made a contract with the plaintiff manufacturer by which the former was given the exclusive privilege of sale of the latter's products within a certain terri-

tory. There was a provision that the dealer could not recover for loss of profits resulting from the failure of the manufacturer to deliver goods ordered, and another provision allowed cancellation of the contract by either party upon sixty days' notice, or immediately upon any violation of the agreement. The plaintiff brought suit on a note given by the defendant in part payment for goods delivered, and the defendant brought a cross-complaint for loss of profits which he alleged had been sustained as a result of nondelivery by the plaintiff. *Held,* that the cross-complaint was not enforceable because of the provision that the dealer could not recover for loss of profits due to the failure of the manufacturer to fill orders. *Weil v. Chicago Pneumatic Tool Co.* (1919, Ark.) 212 S. W. 313.

In a concurring opinion, McCulloch, C. J., held that there was a valid contract, since the dealer gained the exclusive privilege, for a given period of time, to sell the manufacturer's products within certain territory, and assumed the duties to sell no other products in competition, and to purchase as many as twenty-five automobiles, at a stated price. The right acquired by the defendant, that the plaintiff should not sell to anyone else in the territory assigned, was of value and a direct limitation on the privileges of the plaintiff. Hence there was sufficient consideration for the undertakings of the defendant. For even a small limitation on the rights, privileges, powers, or immunities of one party is held to be sufficient consideration for the other's promise. *Scriba v. Neely* (1908) 130 Mo. App. 258, 109 S. W. 845; *Russell v. Henry C. Patterson Co.* (1912) 48 Pa. Super. Ct. 571; *Harp v. Hamilton* (1915, Tex.) 177 S. W. 565. A contract for future delivery of personal property, which confers upon either party the arbitrary power of cancellation prior to the delivery, would not be enforceable. *Velie Motor Car Co. v. Kopmeier Motor Car Co.* (1912, C. C. A. 7th) 194 Fed. 324; *Oakland Motor Car Co. v. Indiana Automobile Co.* (1912, C. C. A. 7th) 201 Fed. 499. But in the principal case, sixty days' notice was required for cancellation and this would seem to be sufficient to exempt the contract from the rule applied in the above-mentioned cases. It is true that immediate cancellation could be made for any violation of the agreement, but this power could become vested in either party. A contract which reserved to the defendant the privilege to cancel upon fifteen days' notice was held not to be void. *Thomas v. Anthony* (1916) 30 Calif. App. 217, 157 Pac. 823. In the instant case, it seems that the fact that the dealer was given exclusive selling privileges in his territory would be ample consideration for his undertakings, and that, therefore, the contract would be enforceable. Hence, the concurring opinion seems to be sound.

CONTRACTS—PROMISE TO PAY ANTECEDENT DEBT OF ANOTHER—CONSIDERATION-LOAN.—The defendant held claims against B amounting to some $1,400. The mother of B obtained a loan of $200 from the defendant by giving one year notes and mortgages on her real estate to secure the claims against her son as well as the loan to her. The guardian of her estate, appointed after the transaction, brought this action to set aside the notes and mortgages. *Held* (two judges *dissenting*), that the notes and mortgages were without consideration and void except as to the amount of the loan, and that relief should be granted to that extent. *Luing v. Petersen* (1919, Minn.) 172 N. W. 692.

A promise to perform the pre-existing duties of her son would be unenforceable against the mother without some new consideration other than love and affection. *Rann v. Hughes* (1778, H. L.) 7 T. R. 350, note (a); *Schnell v. Nell* (1861) 17 Ind. 29. The duty which the mother undertook in signing the notes, however, was conditional and was not to come into existence unless her son defaulted, except as to the $200. It is not, therefore, a question of the